

STATE HOUSING APPEALS BOARD

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Draft

Minutes of the December 11, 2007 Board Meeting

The State Housing Appeals Board (“SHAB” or the “Board”) held a public meeting on December 11, 2007 at the Warwick City Hall.

ATTENDANCE

The following members attended the meeting: Cynthia Fagan, William White, Donald Goodrich, Charles Maynard, Steve Ostiguy and Mary Shekarchi, Esq., Chair. Also present were Steven M. Richard, legal counsel to the SHAB, Katherine Maxwell, and Karen Slavin, administrative staff to the SHAB.

Chairwoman Shekarchi called the meeting to order at 2:03 p.m.

AGENDA ITEMS

1. Docket Update by SHAB's Legal Counsel.

Mr. Richard noted that, in the matter of Women's Development v. Town of Richmond (SHAB No. 2005-05), the abutter appellant, Cynthia Gifford has petitioned the Supreme Court seeking review of the Superior Court decision affirming SHAB.

Mr. Richard informed the Board that the parties in Church Community Housing v. Town of Little Compton (SHAB No. 2007-2) have been instructed to work on scheduling issues with the Superior Court in the related appeal filed by an abutter and interested parties. Mr. Richard reminded the Board that the briefing schedule in Regional Development v. Town of Cumberland (SHAB 2007-01) is ongoing and will likely to be completed in early March.

Mr. William Landry, counsel for the developer in the Highland Hills v. Town of Cumberland appeal (SHAB No. 2005-04), reported to the SHAB from the audience that the parties remain in mediation.

2. Clarks Falls Realty, LLC. v. Town of Hopkinton, SHAB appeal # 2006-02.

Arguing for the Developer, Mr. William Landry Esq. maintained that the local review board decision was arbitrary and not supported by the record, particularly regarding the density bonus granted. Noting

that the application has been submitted prior to approval of the Town's Affordable Housing Plan, he maintained that the SHAB should not consider the Plan in its deliberations. Mr. Landry further argued that the Town's zoning effectively precluded the development of affordable housing and that no significant evidence of health, safety or welfare impacts had been presented.

Mr. Landry further argued the Local Review Board decision could not be deemed consistent with the local needs, as required by the statute, because the Town had not met nor lacked a plan to meet the 10% affordable housing goal at the time of his client's application.

Questioning by the Board clarified that the developer was appealing only 2 conditions set forth in the Local Review Board decision - the density allowed by the decision and the requirement to conform to the Residential Cluster Zoning requirements.

Ms. Patricia Buckley, Esq., who argued for the Town, maintained that the Local Review Board decision was properly characterized as an approval with conditions, not a denial as the developer argues. She maintained that the statutory feasibility requirements applied to all developers (non profits and for-profits). Continuing, she described the significant progress the Town has made in enhancing the increasing its affordable housing units. Ms. Buckley maintained that the only sensible assessment of the Town's plan to meet its affordable housing needs would be factor in its current progress

towards meeting those needs.

Ms. Buckley contended that the Town's Comprehensive Plan and regulations were consistent with the local needs for affordable housing. She further maintained that density bonus granted in the local decision was based upon a formula because the developer had not provided sufficient evidence to determine accurately the buildable area on the project site. She further maintained that the developer's project design imposed unacceptable environmental impacts to a very valuable old growth forest and provided only a small gain in affordable housing units.

SHAB questioned counsel on the effects of the requirement to conform to residential cluster development standards and the lot line set back within and at the perimeter of the proposed development.

Mr. Richard referred the Board to the Rhode Island Supreme Court's decision in Omni Development, indicating that the standards of review outlined therein should guide their deliberations.

SHAB deliberated at length the effect upon affordable housing of the predominance of R80 zoning in Hopkinton and the potential impacts of either R80 or residential cluster zoning on proposals for affordable housing.

Mr. White moved to request counsel to submit supplemental

memoranda within 30 days further addressing the issues of the effects of local regulations and their consistency with local needs for affordable housing as defined in the statute, and Ms. Fagan seconded. Motion passed unanimously.

3. Other Business

Reappointments

The Chair reported that the resumes of those Board members wishing to be reappointed have been compiled and will be submitted to the Governor's office under her cover letter for reappointment consideration.

Adjournment

Meeting adjourned at 3:56 PM.

Respectfully submitted,

Mary B. Shekarchi, Esq.

Chairperson

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